

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROBERT CARNEY and BONNIE CARNEY,

Plaintiffs,

v.

Civil Action No. 5:07CV79
(STAMP)

OHIO RIVER COLLIERIES COMPANY,
ALL AMERICAN HOMES OF OHIO, LLC
and ALL AMERICAN HOMES, LLC,

Defendants.

ALL AMERICAN HOMES OF OHIO, LLC
and ALL AMERICAN HOMES, LLC,

Defendant/Cross-claim
Plaintiffs,

v.

OHIO RIVER COLLIERIES COMPANY,

Defendant/Cross-claim
Defendant.

OHIO RIVER COLLIERIES COMPANY

Defendant/Cross-claim
Plaintiff,

v.

ALL AMERICAN HOMES OF OHIO, LLC
and ALL AMERICAN HOMES, LLC,

Defendant/Cross-claim
Defendants.

**ORDER GRANTING DEFENDANT OHIO RIVER COLLIERIES COMPANY'S
MOTION FOR LEAVE TO PLEAD COUNTERCLAIM**

On September 18, 2007, defendant, Ohio River Collieries
Company ("ORCC"), filed a motion for leave to plead a counterclaim

against the plaintiffs, Robert Carney and Bonnie Carney, in the above-styled civil action. In its motion, ORCC asserts that the counterclaim was omitted by inadvertence, that the plaintiffs are aware of the underlying claim giving rise to the counterclaim, that no party will be prejudiced, and that formal discovery has not yet begun. In addition, ORCC observes that this Court's July 30, 2007 scheduling order permits amended filings at any time until October 19, 2007. The plaintiffs have filed no response.

For good cause shown, defendant Ohio River Collieries Company's motion for leave to plead a counterclaim against plaintiffs Robert Carney and Bonnie Carney is hereby GRANTED. The Clerk is DIRECTED to file the Counterclaim of Defendant Ohio River Collieries Company (previously filed with this Court as Attach. No. 3 to Doc. No. 19). Plaintiffs shall file a response pursuant to the time frame set forth in the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein.

DATED: October 11, 2007

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE